

**To:** Grantham, Nancy[Grantham.Nancy@epa.gov]  
**From:** MacIntyre, Mark  
**Sent:** Thur 9/17/2015 8:52:25 PM  
**Subject:** FW: GKM Hearing Clips/Tweets 9/17/2015

Nancy: To your knowledge, have any CO Fish & Wildlife people been called to testify on the impact to the Animas?

**From:** Gong, Kristiene  
**Sent:** Thursday, September 17, 2015 1:47 PM  
**Subject:** RE: GKM Hearing Clips/Tweets 9/17/2015

**Durango Herald:**

<http://www.durangoherald.com/article/20150917/NEWS01/150919659/-1/lettertoeditor/Hearings-on-Gold-King-Mine-a-%E2%80%98farce%E2%80%99?>

**Hearings on Gold King Mine a ‘farce’?**

Democrats grow tired of Republican attacks on EPA

By Peter Marcus Herald staff writer

DENVER – Democrats on Thursday appeared to have had enough of the congressional inquisitions into the Environmental Protection Agency’s handling of the Gold King Mine spill, calling the oversight a “farce.”

EPA chief Gina McCarthy sat before a congressional panel for the third time this week, making it her fourth such appearance after her agency inadvertently released about 3 million gallons of old mining sludge into the Animas River on Aug. 5. The event turned the river an orange color that tested for initial spikes in heavy metals.

Democrats tried to steer away from a Republican-led scolding of the EPA, pointing to larger systemic issues, including mining laws that date back to 1872 and a lack of adequate funding to

address tens-of-thousands of inactive leaking mines across the nation. They touted a proposal that would allow the federal government to assess royalties and fees on hard-rock mining in order to pay for reclamation work.

“Today’s hearing is to blame the EPA for the callous disregard of mining companies, not to be good stewards of our environment, and I think it’s a farce what we are conducting here with you,” Rep. Lacy Clay, D-Mo., addressed McCarthy during the joint House Committee on Natural Resources and Committee on Oversight and Government Reform hearing.

Republicans, however, took the opportunity to repeatedly criticize McCarthy and her agency, accusing her of violating not only civil, but criminal statutes when it comes to water pollution and endangering wildlife.

They said had it been a private company that erred, massive fines and penalties would have been assessed. Instead, the EPA has held none of its staff accountable, nor has it ended its contract with Environmental Restoration, LLC, the contractor who was working with the EPA on reclamation when a breach during excavation led to the disaster.

EPA officials say they are waiting on an investigation into the incident being conducted by the Interior Department. Critics of the agency, however, say the investigation is far from independent, as there is overlap between the DOI and EPA.

“Can you understand some of the frustration, the position you put yourself in as being the enforcers, the experts in the field, and you’re saying this is a mystery, we’re having now to look back and see what went wrong,” said Rep. Scott Tipton, R-Cortez, who has been actively involved in oversight since the incident was first reported in his district.

Rep. Bob Bishop, R-Utah, pointed to a 2014 EPA document that stated: “Conditions may exist that could result in a blow-out of the blockages and cause a release of large volumes of contaminated mine waters and sediment from inside the mine, which contain concentrated heavy metals.”

“Clearly these documents demonstrate that in fact you did not only anticipate the possibility of a release, but also of a major blow-out, and yet EPA conducted no consultations with Fish and Wildlife, as is required under the Endangered Species Act,” Bishop said. “These activities are both criminal and civil penalties.”

McCarthy said there was no way to anticipate a blowout, since the work being conducted at the Gold King Mine near Silverton was meant to prevent such an incident.

“The statement you’re reading indicates that we were worried about those conditions existing. We clearly stated it to the contractor so that there would be no actions taken that would have caused that release, but instead we were there to prevent that release,” McCarthy said.

She acknowledged that her agency could have done a better job at communication following the event, with downstream stakeholders not receiving notification until the day after. Southern Ute Indian Tribe Councilman James M. Olguin offered sworn testimony that the tribe’s chairman, Clement Frost, did not receive a personal call from McCarthy until last Monday.

McCarthy declined to speak on a panel with other stakeholders, including tribal leaders and health officials from Colorado and New Mexico, so she was unavailable to respond to the concerns raised by Olguin and others.

“Refusing to sit alongside representatives of the states and tribes who traveled across this country to discuss this disaster is simply unheard of and it’s wrong,” Bishop said. “It’s arrogant and it is hubris.”

**From:** Gong, Kristiene  
**Sent:** Thursday, September 17, 2015 2:09 PM  
**Subject:** RE: GKM Hearing Clips/Tweets 9/17/2015

**CLIPS:**

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**The Hill:**

<http://thehill.com/policy/energy-environment/254052-epa-republicans-spar-on-mine-spill-response>

**EPA, Republicans spar on mine spill response**

By Devin Henry - 09/17/15 01:50 PM EDT

Environmental Protection Agency (EPA) administrator Gina McCarthy rebutted complaints from Republicans and the Navajo Nation about the EPA's response to an August mine spill on Thursday.

Navajo leaders have heavily criticized the federal government for its handling of the Aug. 5 spill of 3 million gallons of toxic waste in Colorado, threatening to sue the EPA over the incident and questioning the current safety of the river's water.

Republicans took up that cause during a House hearing Thursday. Led by Rep. Jason Chaffetz (R-Utah), they slammed McCarthy for what they considered lax coordination with the Navajo Nation and other Indian tribes affected by the spill.

Chaffetz said the EPA should have contacted Navajo officials earlier, and given them access to the spill site when they requested it, and he questioned McCarthy's testimony that the EPA has been working with the tribes on the issues.

"You didn't make the call. You have the president of the Navajo Nation, and you personally didn't get involved in this. It's one of the worst spills we've ever had," Chaffetz told McCarthy.

"You're totally misleading, totally out of touch and totally inappropriate in this instance."

McCarthy acknowledged that the EPA acted too slowly to warn the Navajo Nation and others along the Animas River about the spill, but she said the agency is looking to speed that process up in the future.

“I would argue that we should have done it better,” she said. “Are we trying to do better? Yes. We issued a notification to all of our regions to go back and look at what our notification process is, how do we improve it, how do we test it frequently, and I think we could have done a lot better than this.”

But McCarthy said the agency did what it could to get information to the tribes before the spill affected them. Officials notified the Navajo Nation about the spill on Aug. 6, two days before the waste reached them.

“I regret that,” he said. “I wish it had been earlier, but the plume didn’t get to the Navajo until Aug. 8, so we had time to work with them on it, to coordinate with them ever since.”

Russell Begaye, the Navajo Nation’s president, told the committee on Thursday that the Navajo are concerned about the mishandling of the spill, the coordination between the EPA and the tribes affected by it and “the resulting culture of distrust.”

“Hold the EPA accountable for the toxic spill that occurred on Aug. 5,” Begaye told the committee. “Don’t let them get away with their negligence.”

In an interview with The Hill on Wednesday, Begay said he was disappointed by the government’s interaction with the Nation.

“With Obama, we’ve been asking for him to at least give us a call and tell us you are there to help us and walk with us. But we have heard not a word. It seems like they’ve just closed the doors and walked away,” Begaye said. “We were the swing vote for them for years and they

haven't done a thing.”

**TWEETS:**

**Senate RPC @Senate\_RPC**

Animas river spill "a man-made disaster the Obama administration's EPA inflicted upon Americans." -@SenJohnBarrasso

**Casey W. @Mix\_walker**

#EPA hearing reminds me of #IraqWar. #GOP blames #Obama for taking troops out, but not #Bush for invading. No blame to mining company!

**America's Power @AmericasPower**

.@GinaEPA admits during @NatResources @GOPoversight hearing, “This is not EPA’s finest hour.” #EPASpill

**Soil Science News @SoilScienceNews**

Lawmakers, tribal officials blast EPA for Animas River spill response - Arizona Daily Sun  
<http://ow.ly/34hLay>

**From:** Gong, Kristiene  
**Sent:** Thursday, September 17, 2015 11:51 AM  
**Subject:** RE: GKM Hearing Clips/Tweets 9/17/2015

**CLIPS:**

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**Washington Examiner:**

<http://www.washingtonexaminer.com/arrogance-epa-scolded-for-dodging-victims-of-toxic-spill/article/2572314>

**'Arrogance': EPA scolded for dodging victims of toxic spill**

By JOHN SICILIANO

House Natural Resources Committee Chairman Rob Bishop, R-Utah, scolded the head of the Environmental Protection Agency on Thursday for her "arrogance" and "hubris" in asking not to sit next to victims of the toxic spill that the EPA has taken responsibility for in Colorado.

"I understand [EPA] administrator [Gina] McCarthy agreed only to come if she testified first and on her own panel," Bishop said in his opening remarks at a hearing to probe the Aug. 5 toxic water spill that impacted three western states.

McCarthy did get her way, and was alone on the first panel in the hearing. Other witnesses were to follow on a second panel. That prompted Bishop to remark that McCarthy is "lucky this is a joint committee" hearing between the Natural Resources and Oversight committees.

"That is something we would not do in my own committee," he said of the arrangement. Bishop added that McCarthy's "refusing to sit alongside representatives of the states and tribes that have travelled across the country to discuss this disaster is simply unheard of, and is wrong."

"It is arrogance, and it is hubris that goes through the agency," he said. "And it should not take place."

Bishop's committee was joined by the House government oversight committee to probe last month's spill that sent 3 million gallons of toxic sludge into the waterways of Colorado, New Mexico and Utah. It's the third hearing this week in which McCarthy testified on the spill.

Rep. Raul Grijalva of Arizona, the ranking Democrat on the Natural Resources Committee, blamed Republicans for piling on against the EPA, and said the spill is "being mined like a political gold mine. And the rush is on." He said the GOP can't "pass up a chance" to attack the EPA.

### **TWEETS:**

**Texas Eco News @TexasEcoNews**

#EPA #Texas House committee to examine Animas River Spill <http://ift.tt/1Ks9n3E>

**TaRhonda Thomas @TaRhondaThomas**

TODAY: Hearing on Animas River spill. Documents show EPA knew there was a risk of a breach more than a year ago. #9newsmornings

**David Howell @impalamania**

Boehner's home state set to lay into EPA at hearing - <http://klou.tt/835erfad6hrf>

**Mark Meadows @RepMarkMeadows**

LIVE at 10am: @GOPoversight & @NatResources investigate the #EPA's Animas River spill  
<https://oversight.house.gov/hearing/epas-animus-spill/>

**Louie Gohmert @replouiegohmert**



House [@NatResources](#) holding a hearing today at 9am CT addressing #EPA's Animas Spill. Watch the live-stream here: <http://1.usa.gov/1W4Seku>

**Natural Resources @NatResources**

Tune in at 10am to watch the EPA be held accountable & hear from those the #EPASpill affected <http://1.usa.gov/1UNwoVi>

**Natural Resources @NatResources**

Evidence shows #EPA is more concerned with enforcing a heavy handed regulatory agenda than protecting our resources <http://1.usa.gov/1UNwoVi>

**House OversightDems @OversightDems**

Joint Hearing with @NRDems on Animas Spill underway. #EPA

**Limited Government @LimitGovt**

Watch now: [@jasoninthehouse](#), [@RepRobBishop](#) & the [@GOPoversight](#) to question [@GinaEPA](#) McCarthy over #COdriverspill.

**Rep. Jeff Duncan @RepJeffDuncan**

Proud to sit on the dais w/ Trey Gowdy in joint hearing of NR & OGR on the EPA river contamination. McCarthy should OWN this spill & resign

**Doug LaMalfa @DougLaMalfa**

EPA's Animas River spill being reviewed now in a Joint hearing of House Govt Oversight and Natural Resources Comms, EPA admin McCarthy present

**House OversightDems @OversightDems**

.@RepCartwright at EPA hearing: The fact is tht mining companies haven't been held responsible for the toxic devastation they left behind.

**Western Caucus @westerncaucus**

Bishop: McCarthy refused to testify alongside local, tribal officials. Administration does not deserve special treatment #EPAspill

**Rep. Jeff Duncan @RepJeffDuncan**

How will EPA police itself vs how it would treat private enterprise over the Animas river spill? #doublestandards #AnimasRiver #NRCmte

**Rep. Paul Gosar, DDS @RepGosar**

When will EPA tell the truth about Colorado's Animas River spill? (Spoiler... never)  
<http://www.foxnews.com/opinion/2015/09/09/when-will-epa-tell-truth-about-colorados-animas-river-spill.html> @FoxNews #ImpeachMcCarthy

**Liz Hempowicz @lizzy\_loo\_hoo**

Congressman Rob Bishop asking some very great #oversight questions of the #EPA at the Joint Oversight hearing <http://1.usa.gov/1UNwoVi>

**America's Power @AmericasPower**

.@NatResources Chairman @RepRobBishop during joint hearing w/ @GOPoversight: #EPA & the Department of Interior will be held accountable.

**America's Power @AmericasPower**

.@RepRobBishop: #EPA more concerned w/ the enforcing of a heavy-handed regulation than actually protecting our resources. @NatResources

**EARTHWORKS @Earthworks**

@NatResources chairman accuses @GinaEPA of lying about whether @EPA tried to get Navajo to waive their rights

<http://www.oversight.house.gov/hearing/epas-animus-spill/>

**EARTHWORKS @Earthworks**

.@GinaEPA: #mining companies don't pay to clean up abandoned mines or pay a royalty #AnimasRiver

**EARTHWORKS @Earthworks**

@RepCartwright asks @GinaEPA how much do hard rock mines get charges for clean up?  
Answer: Polluters pay

**elizabeth ray @eraycrc**

This hearing is getting really ugly fast! @GinaEPA in the hot seat - WATCH:  
[1.usa.gov/1UNwoVi](http://1.usa.gov/1UNwoVi) @NatResources #AnimasRiver

**Louie Gohmert @replouiegohmert**

RT @NatResources: Gohmert: What did #EPA do to be prepared when floodgates opened other than have waiver claims ready [1.usa.gov/1UNwoVi](http://1.usa.gov/1UNwoVi)

**Manuel Quinones @ManuelQ**

At 4th hearing on EPA Colo. spill, Dems accuse Republicans of totally ignoring broader abandoned mine problem.

**From:** Gong, Kristiene  
**Sent:** Wednesday, September 16, 2015 4:55 PM  
**Subject:** RE: GKM Hearing Clips/Tweets 9/16/2015

**CLIPS:**

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**AP (via Newser):**

<http://www.newser.com/article/72072bd92ff243358497b30ca69d55fc/epa-chief-defends-agency-response-in-toxic-mine-spill-that-fouled-water-in-3-western-states.html>

**EPA chief defends agency response in toxic mine spill that fouled water in 3 Western states**

EPA chief: Agency did not shirk responsibility in mine spill (updated)

By MATTHEW DALY | ASSOCIATED PRESS

WASHINGTON (AP) — The head of the Environmental Protection Agency dismissed complaints Wednesday by Republican lawmakers that her agency downplayed the seriousness of a toxic mine spill that fouled rivers in three Western states.

EPA Administrator Gina McCarthy called the spill caused by her agency "tragic and unfortunate" and said the EPA has taken responsibility to ensure that 3 million gallons of rust-colored sludge released into Colorado's Animas River is cleaned up. The Aug. 5 spill occurred during excavation work at an inactive gold mine near Silverton, Colorado.

Republican senators charged at a hearing Wednesday that EPA is treating itself more gingerly than if a private company were responsible for the spill, which sent lead, arsenic and other heavy metals rushing toward downstream communities. The spill contaminated rivers in Colorado, New Mexico and Utah, as well as in the Navajo Nation and Southern Ute Reservation.

Sen. John Boozman, R-Ark., said the EPA employed a "double standard" in responding to the Colorado spill. While the agency at times adopts an aggressive, even "heavy-handed" approach to regulating companies, Boozman told McCarthy, "your initial reaction (to the Colorado spill) was to downplay the severity of it."

The EPA initially said the accident spilled 1 million gallons before revising it to three times that amount. State and tribal officials also have complained that EPA was slow to notify them of the accident.

Boozman said he was appalled at McCarthy's comment, during an Aug. 13 visit to New Mexico, that the Animas River was "restoring itself."

"That was done very, very poorly," he told McCarthy at a hearing conducted by the Senate Environment and Public Works Committee.

"There's no way EPA should have downplayed this. I certainly did not," McCarthy replied.

McCarthy disputed comments by Republican Sens. Dan Sullivan of Alaska and John Barrasso of Wyoming that a private company responsible for the spill would face stiff fines from the EPA.

"I think EPA ought to be held to an even higher standard" than a private company, Barrasso said.

McCarthy said a private company would likely not face fines for an accident that occurred during a cleanup similar to the one at the former Gold King Mine. The only exceptions would be if the company's actions went "against a settlement" or an administrative order by the EPA, she said.

At a separate hearing Wednesday before the Senate Indian Affairs Committee, Sen. John

McCain, R-Ariz., said it was "shameful" that six weeks after the spill, states and tribes "are still reeling from EPA's calamitous failure." McCain told McCarthy he was outraged that no one at EPA had been fired or disciplined as a result of the spill.

"You think no one did anything wrong. It was no one's fault," he told McCarthy.

"I'm not suggesting this wasn't a disaster. It clearly was" a disaster, she said.

The EPA's inspector general and the U.S. Interior Department are reviewing the incident, and EPA officials and contractors will be held accountable for any wrongdoing, McCarthy said.

McCarthy defended the independence of the Interior Department review, which comes at her request. While several GOP lawmakers asked for paperwork outlining the scope of the investigation, McCarthy said she did not have documentation, adding that it was up to officials at the Interior Department to decide what to look at and how the inquiry will be conducted.

"We are hands-off on this issue," she said, adding that EPA is "going to live with whatever scope" Interior decides is appropriate.

Republicans and Democrats in Congress have announced a variety of bills to respond to the spill, including a measure sponsored by Sen. Martin Heinrich, D-N.M., to establish a Hardrock Reclamation Fund, funded by new royalties on minerals extracted from public lands, as well as so-called Good Samaritan authority to allow third parties to cleanup mine sites they had no role in creating.

There are an estimated half a million abandoned mines nationwide, including more than 23,000 in Colorado. EPA has estimated the cost of cleaning up abandoned mines nationwide, not including coal mines, at between \$20 billion and \$54 billion.

The EPA has suspended cleanup work and site investigations at 10 polluted mining complexes in

four states because of conditions similar to those that led to the Colorado spill. Four sites are in Colorado, three in California, two in Montana and one in Missouri.

All have the potential for contaminated water to build up inside mine workings, setting the stage for a possible spill similar to the Gold King Mine blowout, the EPA said.

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**Washington Examiner:**

<http://www.washingtonexaminer.com/mccain-blasts-epas-mccarthy-over-toxic-spill/article/2572211>

**McCain blasts EPA's McCarthy over toxic spill**

By JOHN SICILIANO • 9/16/15 4:26 PM

Republican Sen. John McCain wants heads to roll at the Environmental Protection Agency over the toxic spill it caused last month.

In a heated exchange with EPA Administrator Gina McCarthy at a Wednesday hearing of the Senate Indian Affairs Committee, McCain tried to corner the agency chief on holding someone accountable for the spill.

The committee looked at the agency's response to an Aug. 5 spill from an abandoned mine in Colorado that sent 3 million gallons of toxic sludge across the waterways of three states. The hearing was the second Wednesday where McCarthy had to defend her agency's actions.

Tribal communities such as the Navajo Nation were affected by the spill, and McCain appeared to be advocating for the Navajo's many concerns.

Here is a excerpt of the exchange, which could be characterized as almost a brawl:

McCain: Has anyone been fired for the Navajos' complaint that notification and emergency response was inadequate?

McCarthy: We actually did provide, send a signal through a memo that we had to look at the notification process. I am not saying it could've been and should've been quicker and more comprehensive. We work on the state on that to update our system ... [cut off by McCain].

McCain: So your answer is no.

McCain: Has anyone been fired at EPA for complaints that the EPA did not quickly and routinely share water quality monitoring data with the tribes?

McCarthy: We believe we've done a good job at providing ... [cut off by McCain].

McCain: You believe that. But the tribes don't. ... In other words you've done nothing.

McCain: Tell me something ... If a mining company caused an accident like this what kind of penalties, fines ... would [EPA] levy? I would be interested in that.

... The agency is responsible. Isn't the agency composed of people? So, when the agency is responsible, then people are responsible.

McCarthy: There is no question, if we find that if anybody hasn't done their job ... [cut off].



McCain: Someone is responsible for the accident that happened. An accident happened, a river was polluted, people were not notified, we all know what happened. So, why is it that you're saying that you don't know if anyone was responsible?

McCarthy: I'm not saying that the acts of the agency didn't cause the accident. But accidents by their very nature may not have resulted from any negligence whatsoever on the part of anybody.

McCain: You really believe that this spill could have [occurred] with no negligence on the part of anyone?

McCarthy: I believe we went in there with the state of Colorado ... and all the experts agreed this was the next step to take. They made a judgment that you can see in our internal review that there was not an opportunity .... That judgment was obviously incorrect. But whether or not they did due diligence ... [cut off by McCain].

McCain: That's almost classic. You don't believe someone is responsible for a decision that caused this kind of an incredible disaster and could impact the lives of Native Americans for a long period of time.

**Washington Examiner:**

<http://www.washingtonexaminer.com/navajo-head-epa-created-culture-of-distrust-after-spill/article/2572208>

**EPA created 'culture of distrust' after causing toxic spill: Navajo head**

By JOHN SICILIANO

Navajo Nation President Russell Begaye is ready to lay into the Environmental Protection

Agency for causing a toxic spill that he says has ruined the livelihoods of many of his nation's farmers and creating a "culture of distrust" between his people and the Obama administration.

The EPA admitted that it caused the Aug. 5 spill at the abandoned Gold King Mine in Colorado, releasing three million gallons of toxic sludge into the Animas River in Colorado, which later flowed into the waterways that Begaye's people rely upon for farming.

Begaye, who will testify before Congress over the next two days on EPA's response to the spill, recounted his ordeal in dealing with the agency in an interview with the Washington Examiner.

He said the agency's primary motivation in responding to the nation's pleas for assistance was to prepare for litigation that EPA officials knew would be coming.

"They call us right before testimony occurs, being nice to us," Begaye said. "To me what EPA is doing now is ... preparing to defend themselves in court. That's what they're doing. It's very clear."

He said the Navajo Nation has been asking for cleanup assistance, but the EPA has "pulled out" from aiding farmers along the banks of the San Juan River in New Mexico.

He said their requests to the Federal Emergency Management Administration for help have been denied. "But EPA, in our conversations with FEMA, they said 'we are the lead agency, we are taking care of it, everything is OK, we'll handle it, so back off.'"

"That's just wrong," Begaye says. "All it is, is EPA defending itself, getting ready to go to court."

Begaye said the EPA knew from the beginning that it would have to be settled in court due to its gross negligence in causing the spill.

The decision to sue EPA became clear, he said, "especially [after] I got a report that they knew about it. That they knew this was about to happen, [but] they did nothing."

"We are going after EPA. They are going to pay for it," he said, recalling what he told a tribal committee after learning that the agency was clearly at fault. "We are going to make them pay."

He said most of the EPA's dealings with the Navajo have been at arm's length. And most of the on-the-ground assistance it did provide farmers was withdrawn without explanation, which he says EPA Administrator Gina McCarthy refutes in conversations he has had with her in recent days.

Other requests for removing toxic deposits from river sediment have gone unanswered, even though he says farmers up river from him, outside of the nation, have been assisted in removing their sediment.

The EPA had told him the week after the spill that it would take decades to clean up the heavy metals that were left behind. Begaye said his people distrust EPA and worry that without proper remediation their crops could be permanently damaged.

"The culture of distrust is just there, and [EPA] did it, they developed it," he said. "I was really enthused when EPA said it was clearing up, and we'll be out of this in no time." But "one million gallons turned to three million, now it's up close to 30 million gallons has come down" from the mine.

The nation has kept river water from being used at its farm and for livestock, even though the EPA gave the all clear.

He said as early as Monday, "there was an alert that EPA put out that there was more contaminants going into the river."

Begaye is testifying before the Senate Indian Affairs Committee Wednesday. On Thursday, he will testify before the special joint committee session in the House between the natural resources and government oversight committees.

"First, we need to get justice done. That's what we're looking for," Begaye says. EPA "knew the spill was going to happen, you didn't do anything about it, you were negligent, and [the spill] happened. And now after a month, you're saying everything is back to normal, and we're walking. It's just not right."

"So, we're asking Congress to come alongside us and help us, [and] make sure they just don't go away," he said.

The EPA did not comment, instead referring to an Aug. 15 fact sheet that says: "EPA regrets and deeply apologizes for the potential impact this is having on the health, finances and culture of Navajo communities. EPA recognizes the San Juan River as not only an important water resource for agricultural use, but as of cultural significance for Diné people. We are committed to working closely with Navajo Nation Department of Emergency Management to provide alternative drinking, agricultural, and livestock water, and livestock feed, and restoring the river to pre-release conditions."

The Republican chairman of the Senate Indian Affairs Committee, John Barrasso of Wyoming, said tribes used the water and the hearing will be used to get a first-hand account on how the spill is affecting them.

"The EPA needs to work to ensure the mess is cleaned up, the sovereignty of the tribes is respected, and that the concerns of the tribes are acted on," he said.

**From:** Gong, Kristiene  
**Sent:** Wednesday, September 16, 2015 3:40 PM  
**Subject:** RE: GKM Hearing Clips/Tweets 9/16/2015

**CLIPS:**

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**Denver Post:**

[http://www.denverpost.com/news/ci\\_28823857/senate-debates-how-prevent-another-gold-king-mine](http://www.denverpost.com/news/ci_28823857/senate-debates-how-prevent-another-gold-king-mine)

**Senate debates how to prevent another Gold King Mine spill**

Senators weigh Good Samaritan legislation, reforming mining law to require new payments from companies to cover clean-up

By Mark K. Matthews

WASHINGTON — Members of the U.S. Senate sparred Wednesday over two competing plans that supporters on each side said could prevent a repeat of the Gold King Mine disaster in southwest Colorado.

The debate was part of a 90-minute hearing that focused on the Aug. 5 accident and what Congress and the White House should do about thousands of polluted mines in the West.

Lawmakers also took aim at EPA Administrator Gina McCarthy for the agency's role in the Gold King Mine disaster, which led to the discharge of 3 million gallons of toxic waste that impacted Colorado, New Mexico and Utah, as well as the Southern Ute tribe and Navajo Nation.

The hearing opened with Colorado's two senators, Democrat Michael Bennet and Republican Cory Gardner, putting their weight behind what's been dubbed "Good Samaritan" legislation that would make it easier for outside groups to clean up polluted mines — many of which have been left vacant for decades.

Supporters of the idea are concerned these groups could be held liable for the clean-up and its aftermath, and the main thrust of the Good Samaritan approach is to shield them from legal harm.

"This spill shows a greater need for legislation that would allow Good Samaritans the opportunity to assist with cleaning up these abandoned mines across the West," Gardner said.

The proposal has been around for years, but it's been stymied by concerns — largely from the environmental community — that the fix could lead to another accident or pave the way for modern mineral companies to re-mine the sites.

"These so-called Good Samaritan waivers, unless they are very carefully crafted, are not the solution," said Sen. Barbara Boxer, D-Calif., who long has been skeptical of the idea. "Otherwise what happens is there are no rules and there could be unintended consequences."

Other Democrats at the hearing, including Bennet, voiced support for another idea: amending an 1872 mining law and force mining companies to pay new royalties for work they do on public land.

"Beyond the immediate cleanup of this spill, it's high time that we overhaul our abandoned mine cleanup policies to make future disasters like this less likely," said Sen. Martin Heinrich, D-N.M.

"While developers of resources like oil, natural gas, and coal all pay royalties to return fair value to taxpayers for our public resources, hardrock mining companies can still mine valuable minerals for free."

Money from these royalties then could be used to clean-up abandoned mines.

Asked about that idea after the hearing, Gardner said he was undecided on the approach. But argued that Good Samaritan legislation and reforms to the 1872 mining law were not "mutually

exclusive."

"I don't think they're conflicting ideas," he said.

But he said he thought the Good Samaritan legislation had a smoother path to passage than altering the 1872 law, which would require "broader conversations."

"I'm not ruling anything out," he said.

During the hearing Gardner was one of several senators to question the responsiveness of the Environmental Protection Agency following the Aug. 5 spill, as well as whether EPA officials did enough preparation before dealing with the Gold King Mine.

He also echoed a line that congressional Republicans have said repeatedly since the disaster. "EPA should be held to the same standard as EPA would hold a private company," Gardner said.

Bennet took a different tact. Like many Democrats, he emphasized the need to look beyond the immediate disaster.

"Following a crisis like this, it's tempting to point fingers — and we must hold people and agencies responsible for any egregious mistakes or negligence they committed in the days and hours after the spill," he said in prepared remarks.

"But as the communities recover, it's also critical we look at the bigger picture. Let's identify exactly what went wrong to make sure this doesn't happen again," he added.

At that hearing and a second one in the afternoon the EPA's McCarthy clashed repeatedly with lawmakers over the agency's role in the accident.

In one notable exchange, Sen. John McCain, R-Ariz., hammered the EPA chief for a lack of accountability.

Specifically, he took aim at the fact that the EPA as an agency had taken responsibility for the disaster but that no individuals had been fired.

"When the agency is responsible, people are responsible," McCain said.

McCarthy responded that the EPA still was in the process of understanding the full scope of the accident and that the agency was there in the first place with the goal of preventing a blow-out.

"Did we intend to be the one to trigger that?" she said. "Absolutely not."

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**CBS Denver:**

<http://denver.cbslocal.com/2015/09/16/sens-bennet-gardner-question-epa-about-mine-spill-unacceptable/>

**Sens. Bennet, Gardner Question EPA About Mine Spill ‘Unacceptable’**

WASHINGTON, D.C. (CBS4)— It's been more than a month since 3 million gallons of toxic water poured from the Gold King Mine into the Animas River near Silverton, Colorado. On Wednesday, Colorado Senators Michael Bennet, a Democrat, and Cory Gardner, a Republican, teamed up to find out what happened from the Environmental Protection Agency.



An EPA-led crew triggered the spill on Aug. 5, tainting rivers in Colorado, New Mexico and Utah.

Bennet and Gardner were among other senators at the Senate Environment Committee hearing to cross examine Gina McCarthy, the administrator of the EPA on Wednesday. It was one of several hearings on the incident planned by Congress.

“Whether the EPA knew it was likely that water was impounded behind the Gold King Mine portal and a blowout was possible... Whether the health and safety plan for the Gold King Mine work was adequate,” said Gardner. “Why did it take several days for the EPA to revise the amount of contaminated water? The agency initially said the amount was, I believe, 1 million gallons and several days later said the surge consisted of 3 million gallons. What data does the EPA have on the total amount of acid mine drainage on the Upper Animas Basin? How long has the agency been tracking the drainage and publicly measuring?”

McCarthy called the spill caused by her agency “tragic and unfortunate.”

The spill turned the Animas River an eerily strange orange which angered residents, environmentalists and politicians.

“Although the EPA admitted responsibility there is no denying that they caused this spill and that’s entirely unacceptable,” said Bennet. “It’s also clear that the agency was slow to communicate as Sen. Gardner said, with local governments and didn’t obtain water quality results or bring water to farmers who needed it quickly enough. When Sen. Gardner and I traveled to Durango four days after the blowout the river was still bright orange and closed to the public. The Animas River really is the lifeblood of Durango.”

It wasn’t just Colorado’s elected leaders who had some tough questions for McCarthy, but also a senator from Alaska who asked why similar actions to those of the EPA have sent others to jail in the past.

“Do you think anyone from the EPA should be held criminally liable or go to jail?” asked Republican Sen. Dan Sullivan from Alaska.

“I have not received the independent review that is going to fully tell me what happened at that site,” said McCarthy.

McCarthy said a private company would likely not face fines for an accident that occurred during a clean-up similar to the one at the former Gold King Mine. The only exceptions would be if the company’s actions went “against a settlement” or an administrative order by the EPA, she said.

McCarthy also defended the independence of a review being conducted by the U.S. Interior Department, which is investigating the accident at her request. While several GOP lawmakers asked for paperwork outlining the scope of the investigation, McCarthy said she did not have documentation, adding that it was up to officials at the Interior Department to decide what to look at and how the inquiry will be conducted.

### **TWEETS:**

**David G. Breed @dgbreed**

@SenCoryGardner EPA Administrator never came to Silverton. Never visited Gold King Mine. Credibility?

**John McCain @SenJohnMcCain**

My opening stmt at @IndianCommittee hearing on impact of EPA #GoldKingMine spill on Navajo Nation #Arizona: <http://www.mccain.senate.gov/public/index.cfm/floor-statements?ID=7b203f93-c915-446d-ae2c-32db3bcff01b>

**John McCain @SenJohnMcCain**

Delivering stmt shortly on impact of EPA #GoldKingMine disaster on Indian Country @IndianCommittee

Alaska Senator Skewers EPA Administrator During Gold King Mine Spill Hearing:  
[http://www.theblaze.com/stories/2015/09/16/alaska-senator-skewers-epa-administrator-during-gold-king-mine-spill-hearing-your-agency-has-sent-some-people-to-jail/?utm\\_source=twitter&utm\\_medium=story&utm\\_campaign=ShareButtons](http://www.theblaze.com/stories/2015/09/16/alaska-senator-skewers-epa-administrator-during-gold-king-mine-spill-hearing-your-agency-has-sent-some-people-to-jail/?utm_source=twitter&utm_medium=story&utm_campaign=ShareButtons)

via @theblaze

●□□□□□□ Tweeted about 40 times so far

**From:** Gong, Kristiene  
**Sent:** Wednesday, September 16, 2015 1:47 PM  
**Subject:** RE: GKM Hearing Clips/Tweets 9/16/2015

**CLIPS:**

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**AP (via 9News):**

<http://www.9news.com/story/news/local/2015/09/16/congress-mine-waste-spill/32502057/>

**EPA chief: Agency did not shirk responsibility in mine spill**

Associated Press, news source 10:53 a.m. MDT September 16, 2015

WASHINGTON (AP) - The head of the Environmental Protection Agency is dismissing complaints by Republican lawmakers that her agency downplayed the seriousness of a toxic mine spill that fouled rivers in three Western states.

EPA Administrator Gina McCarthy called the spill caused by her agency "tragic and unfortunate." She said the EPA has taken responsibility to ensure that 3 million gallons of rust-colored sludge released into Colorado's Animas River is cleaned up. The Aug. 5 spill occurred

during excavation work at an inactive gold mine near Silverton, Colorado.

Republicans charge that EPA is treating itself more gingerly than if a private company were responsible for the spill, which sent lead and other heavy metals rushing toward downstream communities.

McCarthy said Wednesday "there's no way EPA should have downplayed this. I certainly did not."

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**The Blaze:**

<http://www.theblaze.com/stories/2015/09/16/alaska-senator-skewers-epa-administrator-during-gold-king-mine-spill-hearing-your-agency-has-sent-some-people-to-jail/>

**Alaska Senator Skewers EPA Administrator During Gold King Mine Spill Hearing: ‘Your Agency Has Sent Some People to Jail’**

Sep. 16, 2015 1:32pm

Liz Klimas

The U.S. Environmental Protection Agency’s top official appeared before the Senate Environment and Public Works Committee Wednesday to discuss the Gold King Mine accident in Silverton, Colorado, which led to a spill last month of 3 million gallons of toxic chemicals into the Animas and San Juan Rivers.

After heavy equipment operated by an EPA contractor caused heavy metals to pour from the mine, creating a plume that affected three states and some of the Navajo Nation, Administrator Gina McCarthy admitted that the agency is not used to being on this side of the an environmental disaster. Many questioned in the days and weeks afterward if the EPA would take similar action against itself in this situation as it would a private company.

“We are holding ourselves to a higher standard than we would hold other responsible parties,” McCarthy told NPR last month in one of several announcements that the agency was taking full responsibility for the spill.

Her response to similar inquiry Wednesday was no different.

Sen. Dan Sullivan (R-Alaska) pressed McCarthy several times on the issue.

“If you’re going to hold your agency to a higher standard than the private sector, you need to be aware of what your agency has done in the past,” Sullivan said, citing other cases where the EPA has taken action against private businesses.

“Your agency has sent some people to jail,” Sullivan said.

“Your agency has criminally charged individuals for spills less than what your agency did,” Sullivan said.

McCarthy said that she is still waiting on the independent review of what happened at the mine and the efforts afterward, but added that if no order was violated, then there would likely be no penalties.

Sullivan asked McCarthy what would happen if a private company “was continually violating the law the way the EPA does.”

McCarthy said she didn’t believe the EPA was violating the law.

Sen. Jim Inhofe (R-Okla.), earlier in the hearing, that the EPA had spent \$8 million to date to respond to the spill.

“Based on the committee’s oversight to date, it’s clear the EPA knew that there was likely significant amount of water behind the collapsed Gold King Mine entrance and that there was a risk of a blowout. Given these facts, it is unclear why the EPA and the contractor did not

excercise more care when working at the Gold King Site,” Inhofe said.

Earlier this week, 19 House Republicans called for the impeachment of McCarthy.

Arizona Rep. Paul Gosar in a statement accused her of lying to Congress about an agency rule to protect small streams, tributaries and wetlands.

“McCarthy not only broke the law by lying to Congress, but in doing so she also lied to the American people in order to force misguided and overreaching regulations, which have no scientific basis, down our throats,” Gosar said, adding that EPA mandates under President Barack Obama “will kill hundreds of thousands of jobs and cause untold economic harm to communities throughout the country.”

In a letter to members of Congress, Gosar accused McCarthy of perjuring herself several times this year while testifying before congressional committees on the clean water rule. In each case, McCarthy was discussing details about how the rule was promulgated and its legal justification. Gosar and other Republicans oppose the rule and have supported GOP-led efforts to block it in Congress.

An EPA spokeswoman called McCarthy “a dedicated public servant who performs her duties with the utmost respect for the law.”

Gosar’s resolution “has zero merit and is nothing more than political theater,” spokeswoman Liz Purchia said Monday. “Protecting public health and the environment for all Americans should not be a political issue.”

A spokesman for House Majority Leader Kevin McCarthy, a California Republican who is not related to the EPA chief, said Gosar’s plan would not move forward in the House. “There’s no plan to impeach Gina McCarthy,” said spokesman Matt Sparks.

As for the state of the Animas and San Juan Rivers themselves, within about a week after the spill, concentrations of arsenic, lead and other toxins that had initially spiked, in some locations

measuring hundreds of times higher than recommended for drinking water, had returned to pre-spill levels. Treatment plants have since started drawing water from the rivers again and advisories against fishing, boating and other recreational activities were lifted.

Other hearings on the mine accident will take place this week, including the Senate Indian Affairs Committee on September 16 and the House Natural Resources Committee on September 17.

The Associated Press contributed to this report.

**From:** Gong, Kristiene  
**Sent:** Wednesday, September 16, 2015 1:07 PM  
**Subject:** RE: GKM Hearing Clips/Tweets 9/16/2015

**CLIPS:**

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**Durango Herald:**

<http://www.durangoherald.com/article/20150916/NEWS01/150919713/-1/taxonomy/EPA-taking-hands-off-approach-to-spill-investigation->

**EPA taking hands-off approach to spill investigation**

Administrator Gina McCarthy testifies at congressional hearing

By Jessica Pace

Environmental Protection Agency Administrator Gina McCarthy testifies Wednesday on Capitol Hill in Washington before the Senate Environment and Public Works Committee hearing on the Gold King Mine wastewater spill. Enlarge photo

Evan Vucci/Associated Press

Environmental Protection Agency Administrator Gina McCarthy told U.S. senators there are still many unknowns until the Department of Interior completes its review of the EPA's handling of the Gold King Mine spill.

The Senate Environment and Public Works Committee questioned McCarthy in a Wednesday hearing about the scope of the investigation, but the administrator said the EPA has been adamantly hands-off through the process to ensure an unbiased review.

While excavating at the mine portal for remedial purposes, an EPA crew inadvertently released an estimated 3 million gallons of acidic water into multiple southwestern waterways.

McCarthy repeated to senators the EPA's exhausted point that the agency was aware of the risk of a blowout and was there in the first place to explore restoration options at the state's request.

But as Congress members did at last week's hearing, Senate committee members accused the EPA of being cavalier and hypocritical about the spill's impact.

"The initial reaction of the agency seemed to downplay the incident," Sen. John Boozman said. "Statements like 'the water is healing itself,' if an oil executive said that, people would have gone ballistic."

McCarthy said the eyes of multiple experts and engineers were on the work plan carried out on Aug. 5 and the agency correctly carried out notification requirements, but communication has room for improvement.

"We had a response team in place," she said. "We had on-scene coordinators and EPA staff that immediately put that in motion. But we always look back to see what can we do better and



quicker.”

But the larger issue at stake is one of funding, and placing blame regarding the Gold King incident is overshadowing that conversation, as some senators pointed out. Taxpayers get the bill if good Samaritans don’t take responsibility for mine cleanup. Furthermore, proposed fees on hard rock mining have failed to become law.

“We need a revenue stream to put programs in place to work on the worst of these sites,” Sen. Ed Markey said. “People don’t like to hear it, but you need money.”

### **The Hill:**

<http://thehill.com/policy/energy-environment/253825-senators-point-fingers-after-epa-mine-spill>

### **Senators point fingers after EPA mine spill**

By Timothy Cama - 09/16/15 12:58 PM EDT

Senate Republicans and Democrats sought Wednesday to assign blame to different parties for last month’s massive mine was spill caused by the Environmental Protection Agency (EPA) in Colorado.

While the GOP took EPA head Gina McCarthy to task for not properly preparing for a potential spill and what they saw as a lack of transparency and accountability afterward, Democrats tried to shine a light on the mining companies and outdated laws that caused the wastewater buildup in the first place.

The Wednesday hearing of the Senate Environment and Public Works Committee was the first time that McCarthy has faced lawmakers for her agency’s role in the Gold King Mine spill of Aug. 5, which spill heavy metals into a tributary of the Animas River, closing it for days.

“It is clear EPA knew that there was likely to be a significant amount of water behind the collapsed Gold King mine entrance and that there was a risk of a blowout,” Chairman Jim Inhofe (R-Okla.) said.

“Given these facts, it is unclear why EPA and the contractor did not exercise more care when working at the Gold King site.”

Sen. Cory Gardner (R-Colo.), who was invited to testify along with the rest of the Colorado and New Mexico Senate delegations, criticized EPA’s immediate response to local concerns.

“Although the EPA has acknowledged the magnitude of this crisis, its initial lack of communication and coordination in events leading up to the spill are suitable for congressional oversight,” he said.

“It was not until Aug. 10 that the EPA established a unified command center in Durango. Along with confusion over EPA’s lack of notification, frustration began over the need for timely release of a simple, straightforward interpretation of the water quality monitoring data from the EPA.”

Sen. Dan Sullivan (R-Alaska) said there was a double standard, in which the EPA is holding private companies civilly or criminally liable for pollution, but going softer on itself.

“If you’re going to hold your agency to a higher standard than the private sector, you need to be aware of what you’ve done as an agency in the past,” he said.

Democrats used the hearing to call for a reform in the landmark mining law of 1872, which allows companies to mine for hardrock minerals like gold and uranium on public land without paying royalties.

That missed revenue would help clean up mines, the Democrats said.

“What’s the revenue stream we need to put in place in order to ensure that we don’t see more accidents like this happen? We don’t have a revenue stream,” said Sen. Ed Markey (D-Mass.), who noted that President Ulysses S Grant signed that mining law.

“You can’t have this bargain basement giveaway sale anymore,” he said. “We need a revenue stream so that we can put programs in place to ensure that we can begin to work on the worst of these sites in a much more aggressive fashion.”

McCarthy, who has taken full responsibility for the spill, defended her agency’s actions.

“This was a tragic and unfortunate incident, and EPA has taken responsibility to ensure that we clean it up appropriately,” she said.

In the aftermath of the spill, “EPA and Colorado officials informed downstream jurisdictions in Colorado within hours of the release before the plume reached drinking water intakes and irrigation diversions, and notifications to other downstream jurisdictions continued the following day, allowing for those intakes to be closed prior to the plume’s arrival,” McCarthy said.

President Obama has called on Congress to charge royalties for hardrock mining on federal land, and there are multiple pieces of legislation in Congress aimed at doing so.

## **TWEETS:**

**Tom Udall Press @TomUdallPress**

Udall at EPW Hearing: New Mexicans Deserve Compensation, Long-Term Plan to Address #GoldKingMine Spill <http://1.usa.gov/1KgBL1J>

**Durango Herald @DurangoHerald**

Senate panel members accuse @EPA of being cavalier about #GoldKingMine impact  
<https://shar.es/17HuoA> #AnimasRiver

**From:** Gong, Kristiene  
**Sent:** Wednesday, September 16, 2015 11:41 AM  
**Subject:** RE: GKM Hearing Clips/Tweets 9/16/2015

**CLIPS:**

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**Washington Examiner:**

<http://www.washingtonexaminer.com/gop-senator-epa-knew-the-risks-of-colorado-mine-spill/article/2572162>

**GOP senator: EPA knew the risks of Colorado mine spill**

By JOHN SICILIANO • 9/16/15 11:29 AM

The Republican chairman of the Senate committee on the environment charged Wednesday that the Environmental Protection Agency knew the risks involved when it caused a toxic blowout last month in Colorado, but failed to act accordingly.

"It's clear EPA knew there was likely to be a significant amount of water and a risk of a blowout," Sen. Jim Inhofe, R-Okla., said at a Wednesday hearing on the mine disaster that caused three million gallons of toxic wastewater to pollute rivers in three western states.

Inhofe added that it's "unclear why EPA and the mine contractor didn't exercise more care."

"Questions remain unanswered," the chairman said. He also said he questioned the EPA's choice in using the Interior Department to conduct a review of the toxic spill.

The hearing's main witness at the hearing is EPA Administrator Gina McCarthy.

### **TWEETS:**

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**OhioCoalAssociation @OhioCoalAssn**

Senator @JohnBoozman points out @EPA double standard during @EPWRepublicans #AnimasRiver spill hearing <http://cs.pn/1KmWOSV>

-

**Nouveau @NouveauCorp**

EPA Administrator: There is no question that the EPA actions were responsible for this spill. <http://ow.ly/Sifly>

**Senator Deb Fischer @SenatorFischer**

About to question @GinaEPA at @EPWRepublicans hearing on the Gold King mine spill. <http://goo.gl/tkbeCt>

**Brigham A. McCown @BAMcCown**

Senators question EPA Administrator on the Clean Power Plan and its negative effects on Coal communities. <http://ow.ly/Sih0X>

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**Megan Verlee @CPRverlee**

Gold King mine hearing becoming opportunity for Senators to grill EPA head McCarthy abt other recent rules they're unhappy with.

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**Peter Zampa @PeterZampa**

"There are still serious concerns for Coloradans and communities down stream" - @SenCoryGardner the first to speak this morning.

**Cory Gardner @SenCoryGardner**

And many questions remain for the EPA to answer about their lacking response. #AnimasRiver

**Peter Zampa @PeterZampa**

EPW Senators expressing necessity of an independent review, @SenatorRounds adamant in questioning of @GinaEPA. #GoldKingMine

**EPW Majority @EPWRepublicans**

(1/2) [@jiminahofe](#) via @POLITICOPro "EPA is proposing to spend \$279 million to rework the U.S. energy economy with new climate regulations"

(2/2) "but EPA failed to make minor investment that could have prevented this blowout" @jiminahofe via @POLITICOPro <http://politico.pro/1UW1r1o>

**From:** Gong, Kristiene

**Sent:** Wednesday, September 16, 2015 10:40 AM

**Subject:** GKM Hearing Clips/Tweets 9/16/2015

**Tweets:**

-  
**Melissa Krol @DenverNewsie**

EPA hrng underway in DC. on Gold King Mine disaster. EPA Adminstrator Gina McCarthy to testify

**EPW Majority @EPWRepublicans**

EPW's oversight shows @EPA knew of significant water behind collapsed Gold King mine entrance and there was risk of a blowout - @jiminhofe

**EPW Majority @EPWRepublicans**

.@senudall: "there were delays in communication, notification across 3 @EPA regions...what happened at Gold King is part of a bigger problem"

**EPW Majority @EPWRepublicans**

.@SenBennetCO at EPW hearing on Gold King: "there is no denying that @EPA caused this spill and additionally was extremely slow to respond"

**EPW Majority @EPWRepublicans**

.@SenCoryGardner - Sen. from CO, where the Gold King spill occurred, says he did not hear from @EPA for four days

**Brian Doherty @BDOH**

Hearing on the EPA's Gold King Mine polluting of the Colorado River today in 10am hr.  
@GinaEPA in the hot seat for environmental disaster

**Tom Udall @SenatorTomUdall**

TUNE IN — I'm speaking soon at 1st Senate hearing on #GoldKingMine spill, calling for action to help NM recover. <http://1.usa.gov/1F7rbR8>

**Senator Mike Rounds @SenatorRounds**

Heading to #EPW Committee hearing for the Senate's first hearing on @EPA's Gold King Mine Disaster.